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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,293	08/27/2001	Vieri Vanghi	4740-009	5129
24112	7590	03/23/2005	EXAMINER	
COATS & BENNETT, PLLC P O BOX 5 RALEIGH, NC 27602			SMITH, CREIGHTON H	
			ART UNIT	PAPER NUMBER
			2645	
DATE MAILED: 03/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/940,293

Applicant(s)

VANGHI, VIERI

Examiner

Creighton h Smith

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 Aug. '04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 13-19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-69 is/are allowed.
- 6) ☒ Claim(s) 1,3 and 12 is/are rejected.
- 7) ☒ Claim(s) 4-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esteves et al '510 in view of Vijayan et al '257.

Esteves et al disclose of determining how much power to allocate to each of a plurality of RLPC channels to be transmitted from a base station, based upon the DRC messages transmitted to the base station. In col. 4, lines 15-20, Esteves et al disclose that historical information is used to determine the quality of the Forward Link over which the RLPC is to be transmitted. See also col. 7, lines 50-52. In col. 6, lines 4-6, Esteves et al disclose that the quality of the Pilot Channel may be determined by measuring the signal-to-noise, or carrier-to-interference. In lines 36-45 of col. 6 Esteves discloses that the carrier-to-interference ratio is used to determine the quality of the forward link, and the remote station calculates a data rate based upon the C/I of the pilot received from the base station. In col. 8, lines 56-68, Esteves et al disclose that a determination is made whether the base station 201 is transmitting with too much or too little power based upon the C/I measurement of the Reverse Link. Esteves never discloses setting the RPC channel power based on the "estimate" of the carrier-to-interference ratio. However, Vijayan et al do disclose allocating RPC channel power based on an "estimate" of the carrier-to-interference ratio, cols 10-11, lines 66-67 & 1-4 and col. 12, lines 45-46. To have similarly used Vijayan et al teaching of using only an

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estimated C/I ratio to allocate RPC channel power rather than the actual C/I ratio taught by Esteves et al would have been obvious to a person having ordinary skill in the art because an estimate is easier and less expensive to obtain than the actual ratio is itself. For claim 12, Vijayan discloses in col. 12, lines 34 –38, an IIR filter which is used on the C/I estimate.

Claims 4-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20-69 are allowed.

Any inquiry concerning this communication should be directed to Creighton h Smith at telephone number 308-2488.

A handwritten signature in black ink, appearing to read "Creighton h Smith", written in a cursive style.

14 MARCH '05

Creighton h Smith
Primary Examiner
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